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NASA Policy Directive

COMPLIANCE IS MANDATORY

NPD 5101.1E

Effective Date: September 15,
1997

Expiration Date: July 11, 2012

[Printable Format \(PDF\)](#)

Request Notification of Change

(NASA Only)

Subject: Requirements for Legal Review of Procurement Matters

Responsible Office: Office of the General Counsel

1. Policy

NASA legal counsel will provide legal advice and services, within their assigned areas of responsibility, to all elements of NASA on procurement matters. These matters arise out of the award and administration of contracts, grants, cooperative agreements, and similar instruments, and involve the preparation and negotiation of such legal instruments. Legal counsel will participate, as appropriate, in every phase of the procurement cycle.

2. Applicability

This NPD is applicable to NASA Headquarters and NASA Centers, including Component Facilities.

3. Authority

2 U.S.C. 2473(c)(1). Section 203(c)(1) of the National Aeronautics and Space Act of 1958, as amended.

4. Applicable Documents

- a. NPR 1000.3, "The NASA Organization."
- b. NPD 2000.1E, "Authority To Take Certain Actions for the General Counsel."

5. Responsibility

- a. Legal counsel has the following responsibilities:

(1) Assisting in preparing, drafting, negotiating, and interpreting contracts, grants, cooperative agreements, and similar instruments, including statements of work and specifications.

(2) Advising program and procurement officials in the administration of contracts, grants, cooperative agreements, and similar instruments.

b. Consistent with the procedures and thresholds established pursuant to subparagraph d. below, legal counsel, either at the Centers or Headquarters, will review and concur in or comment on the following matters:

(1) Proposed procurement policies, procedures, instructions, and regulations, and deviations therefrom; delegations of authority; and contract forms and clauses.

(2) Proposed preaward, award, and postaward procurement actions of substantial importance. As a minimum, legal counsel shall participate in acquisition strategy meetings and source selection presentations. Legal counsel should also review solicitations, determinations, evaluations, awards, contract modifications, and terminations.

(3) Orders placed with other Government agencies for the procurement of supplies or services that commit NASA, and any significant communications with such agencies on procurement matters, to the extent not otherwise covered by subparagraph b(2).

(4) Procurement matters involving intellectual property rights.

(5) Procurement-related submissions to the Congress, congressional Committees, individual Senators and Representatives, the Comptroller General, the Department of Justice, Federal or State agencies, courts and other judicial tribunals, the Armed Services Board of Contract Appeals, and the NASA Contract Adjustment Board.

(6) Procurement-related actions that affect the public. Such actions include disposition of protested procurements, rejection of bids, mistakes in bid, contract terminations, and other claims or requests for relief.

(7) All actions related to litigation under the Contract Disputes Act, such as the following:

(a) findings, decisions, and appeals, including all pertinent documents and summaries of anticipated testimony of all Government witnesses; and

(b) notifications to courts, boards, contractors, and interested parties.

(8) Correspondence and other communications with contractors and other interested parties that interpret contractual provisions, commit the Government, or otherwise involve questions having legal implications.

c. As appropriate, program offices will participate in procurement matters set forth in subparagraph b. above.

d. Legal Counsel should review all actions within each of the categories in subparagraph b. Resources may not, however, permit legal review of every action in each category. Offices concerned shall, therefore, issue procedures and establish thresholds for review that ensure that, as a minimum, all significant or sensitive actions in each category receive adequate legal review. These procedures and criteria may not exclude any category of actions listed in subparagraph b. as requiring legal review. Additionally, these procedures shall provide that Center counsel must review and concur, or provide

comments for the record, regarding any action to be submitted to NASA Headquarters for approval or further action.

e. Within 60 days of the effective date of this policy directive, each NASA Center shall develop implementing procedures and thresholds pursuant to subparagraph d. above. When agreement has been reached at the Center, the Chief Counsel will forward to the Associate General Counsel (Contracts), NASA Headquarters, a copy of the proposed implementing procedures and thresholds. The approved implementing procedures and thresholds will be returned, and any future modification thereof will be submitted for approval prior to revision. To the extent not covered by Center guidelines, the office providing procurement support to Headquarters shall also develop any needed implementing procedures and thresholds, and forward them to the Associate General Counsel (Contracts) for approval.

6. Delegation of Authority

None.

7. Measurements/Verification

The General Counsel will measure compliance with this directive through existing communications and reporting channels.

8. Cancellation

NPD 5101.1D, dated September 15, 1997

Revalidated

July 11, 2002

Original Signed by

/s/ Daniel S. Goldin
Administrator

Attachment A: (Text)

(URL for Graphic)

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